

In the Matter of Diane Giordano, Paralegal Technician 2 (S0165E)
DOP Docket No. 2004-404
(Merit System Board, decided May 19, 2004)

Diane Giordano appeals the determination of the Division of Selection Services which found that she did not meet the education and experience requirements for the open competitive examination for Paralegal Technician 2 (S0165E).

The subject examination was announced with a closing date of April 22, 2003. The requirements were an Associate's Degree from an accredited college or university as a Legal Assistant or in Paralegal Studies, or, successful completion of a two year approved course in Paralegal Training at a recognized educational institution and two years of experience as a paralegal in a law firm, legal tribunal, or organization whose primary function is the research, enactment, enforcement, or litigation of legal matters. A total of 60 applicants applied for the subject unassembled examination that resulted in an employment roster of 24 eligibles with an expiration date of July 30, 2006.

Ms. Giordano indicated on her application that she was serving provisionally in the title under test from December 2001 to the closing date. From August 2000 to November 2001 she was an Associate Attorney with the Law Office of Richard Meinders and between May 2000 and August 2000 she was an Associate Attorney with Arthur Stein & Associates. Ms. Giordano was an Associate Attorney with Goldstein & Bachman from August 1999 to May 2000 and was an Associate Attorney with Basile & Testa between December 1996 and August 1999. From October 1994 to December 1996 she was a Law Clerk with Basile & Testa. The appellant was an Inspector with the Casino Control Commission from September 1987 to October 1993. Ms. Giordano possesses a Bachelor's degree in Criminal Justice and a Juris Doctorate.

On appeal, Ms. Giordano argues that courses she completed in pursuit of her Juris Doctorate at Widener University School of Law are comparable to those courses offered as part of the school's Paralegal Program. The appellant lists the specific courses she completed in law school and compares them to courses offered as part of the Paralegal Program. Ms. Giordano also provides copies of course descriptions of for both the Juris Doctorate and Paralegal Program offered by Widener University. Further, the appellant states that her experience as a Law Clerk with Basile & Testa and as an Associate Attorney with various small firms provided her with the required experience.

Captain Elizabeth L. Welch, Bureau Chief, State Bureau of Identification, submitted a letter in support of this appeal. In pertinent part, Captain Welch notes

that the Department of Personnel maintains two types of paralegal titles, the State Paralegal Technician title series and the local government service Paralegal Specialist title, and that both titles undertake virtually identical tasks and responsibilities. However, the Paralegal Specialist title permits a substitution of experience for the required education, but the Paralegal Technician series does not have this substitution clause.

N.J.A.C. 4A:4-2.3(b)(2) states that applicants shall meet all requirements specified in the examination announcement by the closing date.

CONCLUSION

In the present matter, a review of the record demonstrates that initially, the Division of Selection Services correctly determined that the appellant was not eligible for the examination. Although Ms. Giordano argues that the courses she completed in pursuit of her Juris Doctorate are comparable to those offered as part of the school's Paralegal Program, the Merit System Board has previously determined that unless specifically noted in the requirements, even degrees in related fields cannot be substituted for the specific subject fields. See *In the Matter of Eric Pierre and Jonas Weissbrod* (Merit System Board, decided August 12, 2003). The Paralegal Specialist 2 title requires possession of either an Associate's degree as a Legal Assistant or in Paralegal Studies or completion of a two year *approved course in Paralegal Training*. The coursework Ms. Giordano completed was clearly in pursuit of her Juris Doctorate and not a course of study primarily focused on a paraprofessional paralegal career. Moreover, the Board has recently noted that "possession of a Juris Doctorate does not intrinsically qualify an individual to be a Paralegal." See *In the Matter of Johanna Parisien* (Merit System Board, decided March 10, 2004).

The Board has reviewed the matter of applicants who possess a Juris Doctorate who are determined ineligible for the Paralegal Technician 2 title because they did not complete an approved course in Paralegal training. In *In the Matter of Paralegal Technician 2* (Merit System Board, decided January 26, 1993), the Board determined that it would be "inappropriate for otherwise unqualified applicants, who are licensed attorneys, to compete for non-professional Paralegal positions and possibly deprive otherwise qualified applicants, who have chosen a different career path, of an opportunity for a Paralegal position." Regardless, in order for Ms. Giordano's coursework in pursuit of her Juris Doctorate to be accepted as being equivalent to that of the required Associate's degree or approved course in Paralegal training, the appellant must provide documentation from an accredited institution of higher learning that states the school would accept the candidate's credits in the particular course area as satisfying the requirements for a major at that institution. This documentation from the institution must come from the Department Head or Chair associated with the major or course area in question. See *In the Matter of*

Jason Tesauro (Merit System Board, decided February 22, 2002). As such, although the law school coursework Ms. Giordano completed may be similar to that required for Paralegal training, Ms. Giordano has not provided sufficient documentation that the coursework she completed in pursuit of her Juris Doctorate would equate to the education required for the title under test.

With respect to her experience, clearly, Ms. Giordano's provisional experience in the Paralegal Technician 2 title and as a Law Clerk with Basile and Testa between October 1994 and December 1996 would be acceptable to satisfy the experience requirement. However, although candidates for this examination were required to possess the required education as well as the announced experience, equitable relief is warranted in this case. As Captain Welch noted, the local government Paralegal Specialist title permits applicants who possess two years of experience in the preparation of drafts of contracts, briefs, motions, affidavits, or other legal documents and/or experience in the analysis of other legal decisions, opinions, rulings, memoranda, and other legal material, and the preparation of summaries of the points of law, to substitute that experience for the Associate's degree as a Legal Assistant or two year approved course in Paralegal Studies.

Ms. Giordano noted in her appeal that her experience as an Associate Attorney has been with small law firms where she performed duties such as legal research, drafting and preparation of legal documents, and analysis of legal materials. The Board also notes that it has relaxed specialized educational requirements in the past when presented with, among other things, an appellant's additional applicable work experience. See *In the Matter of Marie Rowan and Emma Williams* (Merit System Board, decided January 7, 2004). Therefore, ample cause exists to accept two years of Ms. Giordano's experience as a Law Clerk as satisfying the required education component. However, in conjunction with her provisional experience in the title under test from December 2001 to the April 2003 closing date and the remaining three months of experience as a Law Clerk, she would only have one year and eight months experience as a paralegal. Thus, she would need an additional four months of experience as a paralegal to qualify for the examination. Given the totality of the appellant's experience with small law firms, it is appropriate in this instance to credit her with the remaining four months of experience required for eligibility. In providing this one time equitable relief, Ms. Giordano shall only be deemed to have met the announced requirements as of the closing date and should only be credited with the minimum passing score of 70.000 for this unassembled examination. The Board notes that this relief is based on the particular circumstances of this matter and will not be precedent for any other case.

Because the relief provided by this decision is equitable in nature and there is no evidence of Department of Personnel error, the appellant's name will be added to the eligible list and any prior appointments that may occur before the appellant

has her examination scored will not be affected by the addition of her name to the list. See *N.J.A.C.* 4A:4-2.9(g).

ORDER

Therefore, it is ordered that this appeal be granted and Ms. Giordano be admitted to the examination consistent with this decision. It is also ordered that the Division of Human Resource Management review the job specifications for the Paralegal Technician title series and make any changes that may be deemed necessary.

This is the final administrative determination in this matter. Any further review should be pursued in a judicial forum.